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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,544	04/20/2004	Drew Krah	KTWO122671	3881
26389	7590	10/12/2005	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			SHRIVER II, JAMES A	
		ART UNIT	PAPER NUMBER	
		3618		

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/828,544	KRAH, DREW
	Examiner J. Allen Shriver	Art Unit 3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 05 August 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 29-35 and 37-41 is/are pending in the application.  
 4a) Of the above claim(s) 30-34 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 29,35 and 37-41 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 20 April 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Species 1, shown in Figure 12, in the reply filed on August 5, 2005 is acknowledged.
2. Claims 30-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species 2, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 5, 2005.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 29, 35, 37-38 and 40-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Svensson et al. (US Patent 6,120,040).** Svensson et al. discloses a skate including a glide member for traversing a surface comprising a shoe portion (12) for receiving a skater's foot and including a flexible base (14) underlying the received boot, and an elongate frame (26) for mounting the glide member, the frame pivotally secured to an underside of the base, wherein the frame is balanced to prevent substantial biasing of the frame towards the base and away from the base (See Figs. 6-7 and column 14, lines 26-44); **[claim 35]** the frame

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operably coupled to the base, wherein the base is neutrally biased (See Figs. 6-7) and column 14, lines 26-44); [claim 37] wherein the flexible base has about zero flex strength; [claim 38] wherein the flexible base is made from a resilient base material with little spring force; [claim 40] wherein the flexible base has an area of reduced thickness (22) at the point of flexion; and [claim 41] wherein the flexible base is made from a thermoplastic material that has a transverse groove (22) on the underside of the base.

5. **Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svensson et al. (US Patent 6,120,040) in view of Examiner's Official Notice.** Svensson et al. discloses the skate as set forth above, but does not disclose wherein the flexible base is made from leather. Examiner takes Official Notice that it is notoriously old and well known that skate bases have been made from leather. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to make the base disclosed in Svensson et al. from leather. The motivation for doing so would have been to allow the base of the boot to be lightweight and flexible.

#### *Response to Arguments*

6. Applicant's arguments with respect to claim 29 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's arguments filed June 13, 2005 have been fully considered but they are not persuasive. In regards to claims 35, 37-38 and 40-41, Applicant argues that Svensson et al. does not disclose wherein the base is neutrally biased (meaning that the base produces little or no upward biasing of the frame against the base). Examiner disagrees with this statement, because

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as shown in Figures 6-7 and column 14, lines 26-44, the base is allowed to free heel flex, while a shock absorption system dampens vibrations between the base and frame, but does not provide any biasing of the movement of the base in relation to the frame.

In regards to claim 39, Applicant has not set forth valid reasons as to why Examiner's Official Notice is improper.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (571) 272-6698. The examiner can normally be reached on Monday, Wednesday and Thursday 6:30 am-6:00 pm and Tuesday 6:30 am-11:00 am.

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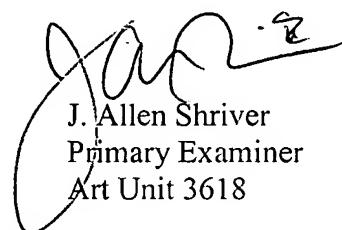
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (571) 272-6914. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or faxed to: (571) 273-8300 (for formal communications intended for entry). (571) 273-6698 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



J. Allen Shriver  
Primary Examiner  
Art Unit 3618

JAS